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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/658,486

09/08/2003

Peter Spielberger

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EXAMINER

VANTERPOOL, LESTER L

ART UNIT

PAPER NUMBER

3782

MAIL DATE

DELIVERY MODE

10/29/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/658,486	Applicant(s) SPIELBERGER, PETER	
	Examiner LESTER L. VANTERPOOL	Art Unit 3782	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 July 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 22-41 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 22-39 is/are rejected.
- 7) ☒ Claim(s) 40 and 41 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, “an identification facility” disclosed in claim 30 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 22 – 34 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 22 recites the limitation "a support facility" in claim 1, lines 16, 18 & 19.

There is insufficient antecedent basis for this limitation in the claim.

Claim 22, lines 16, 18 & 19 recites: "a support facility", however, the specification filed on September 8, 2003 & November 03, 2008 does not identify, disclose, or define or provide any support for the limitation set forth in claim 1, lines 16, 18 & 19 "a support facility".

Claim 30 recites the limitation "an identification facility" in claim 1, line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 30, line 2 recites: "an identification facility", however, the specification filed on September 8, 2003 & November 3, 2006 does not identify, disclose, or define or provide any support for the limitation set forth in claim 1, line 2 "an identification facility".

Therefore, "an identification facility" is unclear.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 22, 24, 25, 27, 28, 29, 35, 36, 37, 38 & 39 are rejected under 35 U.S.C. 102(b) as being anticipated by Tilley (U.S. Patent Number 5449103).

6. Tilley discloses the tubular assembly comprising (14): the elongated first structure (16) that functions as the left side wall (See Figure 2) having the outer surface the inner surface (24) and the top end (26); the elongated second structure (18) that functions as the right side wall (See Figure 2) having the outer surface, the inner surface (24) and the top end (26); the elongated third structure (20) that functions as the front wall (See Figure 2) having the outer surface, the inner surface (24) and the top end (26); and the fourth structure (22) that functions as an elongated rear wall (See Figure 2) having the outer surface, the inner surface (24) and the top end (26) (See Column 1, lines 60 – 68) (See Figure 2);

the top end (26) of the fourth structure (22) is downwardly displaced from the top end (26) of the first structure (16) and the top end (26) of the second structure (18) to form the recess to capture the trigger guard (34) of the handgun (12) (See Figures 2 & 5);

the elongated retention pin (46) (See Figures 2, 4 & 5) having the inner end (See Figure 4), the outer end (See Figure 4), surrounding side walls (See Figure 2) extending

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from the inner end to the outer end and the longitudinally extending X-axis (See Figures 2 & 5); and

the support facility (72) for support the retention pin (46) and reciprocally moving the retention pin (46) into the recess (56) to capture the trigger guard (34) of the handgun (12) therein and preventing removal therefrom (column 2, lines 29 – 31 & column 2, lines 56 – 61) (See Figure 2); the support facility (72) comprising the sliding actuator (74) having the longitudinal extending Y-axis (See Figure 5); the sliding actuator (74) being mechanically interfaced with the retention pin (46) in such a manner as to mechanically contact and move the retention pin (46) to cause the pin to be withdrawn from the handgun trigger guard (34) when it is positioned in the recess (56) by pushing and sliding actuator (74) along the Y-axis that is substantially perpendicular to the X-axis of the retention pin (46) (See Column 4, lines 50 – 54 & See Column 5, lines 14 – 18) (See Figures 2, 3, 4 & 5).

Regarding claim 24, Tilley discloses the first spring element (52) contacting the retention pin (46) and spring loaded the retention pin (46) in the direction to capture the handgun (12) trigger guard (34) when it is positioned in the recess (56) (column 3, lines 33 – 36) (See Figures 2 & 4).

Regarding claim 25, Tilley further discloses the inner end of the retention pin (46) is beveled toward the top end of the holster (14) (See Figures 2, 4 & 5).

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Regarding claim 27, Tilley further first safety lock (42) that prevent sliding movement of the sliding actuator (74) until the first safety lock (42) is disengaged (See Column 4, lines 26 – 32).

Regarding claim 28, Tilley disclose the first safety lock (42) comprising the sliding mechanism (66) that must first be moved before the sliding actuator (74) can be pushed (column 4, lines 25 – 32) (See Figure 5).

Regarding claim 29, Tilley disclose the remote facility operable (68, 69, 70 & 71) to release the first safety lock (42) (See Column 4, lines 1 – 32) (See Figure 5).

Regarding claim 35, Tilley discloses the body (14) defining the tubular passage (24) for receiving the elongated handgun portion (12) including the barrel (See Figure 5);

the body defining the trigger guard space (34) adjacent to the passage for receiving the trigger guard of the handgun;

the trigger guard retention element (See Figure 5) connected to the body (14);

the retention element (46) being slidably operable with respect to the body (14) between the retention positioning which it projects into the trigger guard space (34) and the retracted position in which it is retracted from the trigger guard space (34) (See Figure 5), such that the handgun (32) received in the holster (10) is retained against extraction forces when the latch element is in the retention position, and the handgun

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(12) received in the holster (10) is removable from the holster (10) when the retention pin (46) is in the released position;

the release actuator (74) connected to the body (14);

the release actuator (74) being movable with respect to the body (14) between the actuated position and the retracted position (See Figure 5);

the release actuator (74) being mechanically engaged with the retention element (46) and operable to move the retention element (46) to the retracted position when the release actuator (74) is moved to the actuated position (See Figure 5); and

the release actuator (74) being operable to secure the retention element (46) in the retention position when the release actuator (74) is in the retracted position (See Figure 5).

Regarding claim 36, Tilley discloses the retention element (46) is biased to the retention position (See Column 2, lines 39 – 68) (See Figure 5).

Regarding claim 37, Tilley discloses the retention element (46) reciprocates along the first path, and the release actuator (74) reciprocates on the different second path angularly offset from the first path (See Figure 5).

Regarding claim 38, Tilley discloses the first path is perpendicular to the second path (See Figure 5).

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Regarding claim 39, Tilley discloses the release actuator (74) contacts the retention element (46) at the cam surface (76) (See Figure 5).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 23 & 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tilley (U.S. Patent Number 5449103) in view of Baldocchi (U.S. Patent Number 3910469).

Tilley discloses everything except, the sliding actuator being wedge shaped.

Baldocchi teaches the actuator (38) is wedge shaped (See Figures 4, 5 & 6) for the purpose of providing reliable and durable inexpensive security capabilities.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the sliding actuator wedge shaped as taught by Baldocchi with the holster for handguns of Tilley in order to enhance reliable and durable inexpensive security capabilities.

Regarding claim 26, Tilley does not disclose the sliding actuator having the tapered fork configuration.

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Baldocchi teaches the sliding actuator (38) having the tapered fork configuration (See Figures 4, 5 & 6) for the purpose of providing additional structural durability.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the sliding actuator have the tapered fork configuration as taught by Baldocchi with the holster for handgun of Tilley in order to enhance structural durable strength.

9. Claim 30 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tilley (U.S. Patent Number 5449103) in view of Vor Keller et al., (U.S. Patent Number 6230946 B1).

Tilley does not disclose the first safety lock further comprises the identification facility for identifying the authorized user of the holster.

Vor Keller et al., teaches the first safety lock further comprises the identification facility for identifying the authorized user of the holster (See Column 3, lines 36 - 40).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the first safety lock further comprise the identification facility for identifying the authorized user of the holster as taught by Vor Keller et al., in order to enhance safety and prevent theft.

10. Claims 31 – 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tilley (U.S. Patent Number 5449103) in view of Beletsky (U.S Patent Number 5127566).

Tilley discloses everything except, the elongated safety strap having the first end and the second end and both of the ends are pivotally secured to opposite lateral side walls of the holster; the safety strap is pivotal from the first security position which inhibits removal of the handgun from the holster, to the second position substantially free of the handgun thus allowing the handgun from the holster, to the second position substantially free of the handgun thus allowing the handgun to be withdrawn from the handgun.

Beletsky teaches the elongated safety strap (102) having the first end and the second end and both of the ends are pivotally (111) secured to opposite lateral side walls (103) of the holster (100) (See Figures 5A & 5B); the safety strap (102) is pivotal (111) from the first security position which inhibits removal of the handgun (101) from the holster (100) (See Figure 5A), to the second position substantially free of the handgun (101) thus allowing the handgun (101) from the holster (100) (See Figure 5B), to the second position substantially free of the handgun (101) thus allowing the handgun (101) to be withdrawn from the handgun (101) (column 8, lines 36 – 57) (See Figures 5A & 5B) for the purpose of providing user friendly security precautions and provide quick release.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the elongated safety strap having the first end and the second end and both of the ends are pivotally secured to opposite lateral side walls of the holster; the safety strap is pivotal from the first security position which inhibits removal of the handgun from the holster, to the second position substantially free of the

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handgun thus allowing the handgun from the holster, to the second position substantially free of the handgun thus allowing the handgun to be withdrawn from the handgun as taught by Beletsky with the holster for handguns of Tilley in order to enhance user safety protection and incorporate quick readability.

Regarding claim 32, Tilley does not disclose the pivot facility to actuate pivotal motion of the safety strap.

Beletsky teaches the pivot facility (104) to actuate pivotal motion (111) of the safety strap (102) (column 8, lines 38 – 48) (See Figures 5A & 5B) for the purpose of providing adequate snug security and prevent loose fitting.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the pivot facility to actuate pivotal motion of the safety strap as taught by Beletsky with the holster for handguns of Tilley in order to enhance adequate snug security fitting.

Regarding claim 33, Tilley does not disclose the elongated safety strap having the first end and the second end and both of the ends each having the snap fastener securing them to opposite sides of the holster to inhibit removal of the handgun from the holster.

Beletsky teaches the elongated safety strap (42, 44 & 102) having the first end (See Figures 1B, 5A & 5B) having the snap fastener (11, 12, 13, 18, 22, 26, 106 & 110) securing them to opposite sides of the holster (40 & 100) to inhibit removal of the

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handgun (101) from the holster (40 & 100) (column 8, lines 38 – 48) (See Figures 5A & 5B) for the purpose of providing quick and easy user friendly release capabilities.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the elongated safety strap having the first end and the second end and both of the ends each having the snap fastener securing them to opposite sides of the holster to inhibit removal of the handgun from the holster, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

Regarding claim 34, Tilley does not disclose the formed releasing element shaped to release at least one of the snap fastener using the generally downward motion of the user's hand.

Beletsky teaches the formed releasing element (108) shaped to release at least one of the snap fastener (106) using the generally downward motion of the user's hand (See Column 8, lines 52 – 57) for the purpose of providing user friendly ergonomic capabilities to reduce grasping release finger / hand pressures.

It would have been obvious to one having ordinary skill the art at the time the invention was made to make the formed releasing element shaped to release at least one of the snap fastener means using the generally downward motion of the user's hand as taught by Beletsky with the holster for handguns in order to enhance ergonomic functionality characteristics.

Allowable Subject Matter

11. Claims 40 & 41 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

12. Applicant's arguments filed on July 16, 2008 have been fully considered but they are not persuasive.

Applicant argues, Tilley does not disclose the slide actuator being mechanically interfaced with the retention pin.

Examiner disagrees, Tilley teaches the slide actuator (74) mechanically interfacing and moving the retention pin (46) in Figure 5. The slide actuator (74) and the retention pin are mechanically interfaced and connected by (76) (See Figures 2, 3, 4 & 5).

Applicant argues, the reed switch (66) cited as a sliding element by Tilley, does not appear to have any sliding function, or ability to be moved.

Examiner disagrees, the office action identified the sliding element or actuator is (74) and not the reed switch (66). Therefore, applicant is directed to the sliding element being (74) (See Figure 5).

Applicant argues, Tilley does not disclose the remote facility that operates to release the first safety lock.

Examiner disagrees, Tilley teaches the remote facility (68 & 69) that operates to release the first safety lock (42). Therefore, the remote facility (68 & 69) releases the first safety lock (42) providing the authorized user to slide the actuator (74) to release the handgun (12).

Applicant argues, Tilley in combination with Baldocchi is in error because there is no reason to believe that adopting the Baldocchi button (38) is an “improvement” for Tilley’s switch (74).

Examiner disagrees, applicants claims the sliding actuator being wedge-shaped.

Tilley teaches a straight sliding actuator (74).

Baldocchi teaches a sliding actuator (38) being wedge in shape.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the sliding actuator (38) of Baldocchi and replace the sliding actuator tab (74) of Tilley in order to enhance and provide the authorized user with adequate fingers or thumb gripping and or prevent the authorized users fingers or thumb from slippage.

Applicant argues, Tilley in combination with Beletsky is in error because the snap member (108) and (110) are both on the same end of the strap, intended as mating portions of a single snap fastener.

Beletsky teaches the elongated safety strap (42, 44 & 102) having the first end (See Figures 1B, 5A & 5B) having the snap fastener (11, 12, 13, 18, 22, 26, 106 & 110) securing them to opposite sides of the holster (40 & 100) to inhibit removal of the handgun (101) from the holster (40 & 100) (column 8, lines 38 – 48) (See Figures 5A & 5B) for the purpose of providing quick and easy user friendly release capabilities.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the elongated safety strap having the first end and the second end and both of the ends each having the snap fastener securing them to opposite sides of the holster to inhibit removal of the handgun from the holster, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

Conclusion

13. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lester L. Vanterpool whose telephone number is 571-272-8028. The examiner can normally be reached on Monday - Friday (8:30 - 5:00) EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse can be reached on 571-272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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LLV

October 20, 2008

/Nathan J. Newhouse/

Supervisory Patent Examiner, Art Unit 3782